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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/804,580

03/19/2004

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10022/457

7295

28164 7590 08/20/2009  
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EXAMINER

RINES, ROBERT D

ART UNIT

PAPER NUMBER

3623

MAIL DATE

DELIVERY MODE

08/20/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/804,580	<b>Applicant(s)</b> WAN ET AL.	
	<b>Examiner</b> R. David Rines	<b>Art Unit</b> 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,7,12-19 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7,12-19 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. The following is a non-final office action in response to communications received 5/11/09. Claims 2-3, 6, 11, and 20 have been cancelled. Claims 1, 4-5, 7, 12, 14, 15, 18 have been amended. Claims 22-24 have been added. Claims 1, 4-5, 7, 12-19, 21-24 are pending.

***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Applicant's amendments are sufficient to overcome the 35 USC 101 rejections set forth in the previous office action.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-5, 7-10, 12, 14-19, and 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. 6,067,525) in view of Johnson et al. (U.S. 2002/0006126) and further in view of Malec (U.S. 4,973,952).

As per claim 1, Johnson et al. ('525) teaches a real time sales support method comprising:  
automatically monitoring an interaction between a sales agent and a customer (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See also column 2, lines 47-55);

automatically determining one or more contexts of the interaction and linking the current context to stored information relevant to the interaction (See column 2, lines 30-35 and 47-55, column 5, lines 1-15, column 8, lines 35-50, column 32, lines 55-67, wherein the context of the interaction is determined);

based on the one or more contexts, automatically retrieving the stored information relevant to the interaction (See column 5, lines 1-12, column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-53, wherein information is retrieved about the

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customer and the customer's requirements based on the context to tailor the information to the customer's needs. See specifically column 16, lines 55-65);

providing the retrieved information in an electronically presentable format to the sales agent to be shared with the customer (See column 12, lines 20-30, column 16, lines 20-55);

after providing the retrieved information, further monitoring the interaction and automatically determining one or more additional contexts of the interaction (See column 8, lines 35-50, column 16, lines 20-40 and 50-65, wherein the interaction is ongoing and tailored while the salesperson is interacting with the customer);

based on the one or more additional contexts, automatically retrieving additional stored information relevant to the interaction for the sales agent to share with the customer and providing the addition information to the sales agent to be shared with the customer (See column 8, lines 35-50, column 16, lines 20-40 and 50-65, column 32, lines 35-65, wherein the interaction is ongoing and tailored while the salesperson is interacting with the customer and wherein information is automatically retrieved as new information is collected).

However, Johnson et al. does not expressly disclose that automatically monitoring an interaction between a sales agent and a customer occurs by non-obtrusively detecting spoken words of at least one of the sales agent and the customer or that automatically determining one or more contexts of the interaction is performed by detecting context-identifying keywords among the spoken words to identify a current context.

Johnson et al. (2002/0006126) teaches non-obtrusively detecting spoken words of at least one user and detecting context-identifying keywords among the spoken words to identify a current context (See at least paragraph 26 and 37-38, which discloses detecting spoken words and identifying the context based on the speech recognition).

Johnson et al. ('525) discloses a system that captures the interaction between a sales agent and a customer and based on the context of this interaction allows information to be retrieved and presented to reflect information captured. Johnson et al. ('525) in column 26, lines 45-55, further discusses using different languages or terminology when needed and further discloses that sales agents can be in the field at various geographic locations. Johnson et al. (2002/0006126) teaches capturing the context of spoken words of a user. It would have been obvious to one of ordinary skill in the art at the time of the invention in Johnson et al. ('525) to tailor the presentations and information by using the captured information of Johnson et al. (2002/0006126) in order to more efficiently tailor the time with the customer to the specific needs of the customer. Further, including the captured information of Johnson et al. (2002/0006126) in the system of Johnson et al. ('525) would have produced predictable results, such as an interaction and product presentation that met the specific needs of the user.

Claim 1 has been amended to further include the step of "...automatically estimating a geographic location of the sales agent and the customer on a retail sales floor to identify a geographic context of the interaction between the sales agent and the customer.

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As per these elements, Johnson '525 discloses tailoring of information based on the context of the interaction between the agent and the customer (see at least column 26, lines 45-55 and column 33 line 60 to col. 34, lines 25, discusses context accommodating geographic location/region of the customer).

Johnson '525 and Johnson et al. (2002/0006126) fail to disclose determining the customer/agent location.

As per this element, Malec discloses estimating a geographic location of the sales agent and the customer on a retail sales floor or based on the geographic location of the sales agent and the customer, retrieving information about products for sale near the geographic location on the retail sales floor (See at least column 1, lines 55-57, and column 2, lines 26-28).

Johnson et al. ('525) discloses interacting with a customer using customer specific and tailored information. It would have been obvious to one of ordinary skill in the art at the time of the invention to use location information to custom tailor the presentation presented the customer in order to provide more up to date and specific information to the customer.

Claim 2 is cancelled.

Claim 3 is cancelled.

As per claim 4, neither Johnson et al. ('525) nor Johnson et al. (U.S. 2002/0006126) disclose wherein identifying the geographic context comprises automatically estimating a geographic location of the sales agent and the customer on a retail sales floor or based on the geographic location of the sales agent and the customer, retrieving information about products for sale near the geographic location on the retail sales floor.

Malec discloses estimating a geographic location of the sales agent and the customer on a retail sales floor or based on the geographic location of the sales agent and the customer, retrieving information about products for sale near the geographic location on the retail sales floor (See at least column 1, lines 55-57, and column 2, lines 26-28).

Johnson et al. ('525) discloses interacting with a customer using customer specific and tailored information. It would have been obvious to one of ordinary skill in the art at the time of the invention to use location information to custom tailor the presentation presented the customer in order to provide more up to date and specific information to the customer.

Claim 5 is substantially similar to limitations of claims 1 and 4 and is therefore rejected using the same art and rationale set forth above.

Claim 7 is substantially repeats limitations presented in claim 1. Those limitations are addressed using the same art and rationale set forth above.



Claim 7 has been further amended to specify determination of geographic location is achieved using one or more locations radio signals transmitted from a device and determining the geographic context of the conversation.

Claim 7 has been additionally amended to indicate that context information related to the informational need of the customer is accessed in response to the geographic determination.

As per these elements, Johnson '525 discloses tailoring of information based on the context of the interaction between the agent and the customer (see at least column 26, lines 45-55 and column 33 line 60 to col. 34, lines 25, discusses context accommodating geographic location/region of the customer).

Johnson '525 and Johnson et al. (2002/0006126) fail to disclose determining the customer/agent location.

As per this element, Malec discloses estimating a geographic location of the sales agent and the customer on a retail sales floor or based on the geographic location of the sales agent and the customer, retrieving information about products for sale near the geographic location on the retail sales floor (See at least column 1, lines 55-57, and column 2, lines 26-28 NOTE: Examiner considers the individual carrying the location device to constitute a user choice accommodated by the Malec disclosure).

Johnson et al. ('525) discloses interacting with a customer using customer specific and tailored information. It would have been obvious to one of ordinary skill in the art at the time of the invention to use location information to custom tailor the presentation presented the customer in order to provide more up to date and specific information to the customer.

As per claim 8, Johnson et al. ('525) discloses a portable computer carried by a sales agent in the field, detecting portions of conversation between the sales agent and the customer and producing electrical signals in response thereto to identify a context of the conversation, and transmitting information about the produced electrical signals to a computer carried by the sales agent (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See column 2, lines 30-35 and 47-55, column 32, lines 55-67, wherein the context of the interaction is determined. See column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-65, wherein information is retrieved about the customer and the customer's requirements).

However, Johnson et al. ('525) does not expressly disclose a microphone carried by the sales agent to capture the conversation of wirelessly transmitting information to a remote, portable computer.

Johnson et al. (2002/0006126) discloses capturing spoken aspects of a conversation (paragraph 38). Johnson et al. (2002/0006126) further discloses the use of microphones and wireless communications (See paragraphs 17, 26, 32).

Johnson et al. ('525) discloses a system that captures the interaction between a sales agent and a customer and based on the context of this interaction allows information to be

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retrieved and presented to reflect information captured. Johnson et al. ('525) in column 26, lines 45-55, further discusses using different languages or terminology when needed and further discloses that sales agents can be in the field at various geographic locations. Johnson et al. (2002/0006126) teaches capturing the context of spoken words of a user. It would have been obvious to one of ordinary skill in the art at the time of the invention in Johnson et al. ('525) to tailor the presentations and information by using the captured information of Johnson et al. (2002/0006126) in order to more efficiently tailor the time with the customer to the specific needs of the customer. Further, including the captured information of Johnson et al. (2002/0006126) in the system of Johnson et al. ('525) would have produced predictable results, such as an interaction and product presentation that met the specific needs of the user.

As per claim 9, Johnson et al. ('525) teaches processing the information at the processing device of the computer carried by the sales agent; and producing the audio or video presentation on a display of the computer carried by the sales agent (See column 10, lines 20-40, column 12, lines 12-30, and column 16, lines 20-40).

As per claim 10, Johnson et al. ('525) teaches transmitting a context-specific query to a server from the computer carried by the sales agent; based on the query, at the server retrieving the information from the memory; and transmitting a context-specific response based on the retrieved information from the server to the computer carried by the sales agent (See column 10, lines 20-40, wherein information is requested and retrieved by the sales agent in the field at the portable computer. See also column 6, lines 50-65).

However, Johnson et al. ('525) does not expressly disclose wirelessly transmitting information.

Johnson et al. (2002/0006126) discloses the use of wireless communications (See paragraphs 17, 26, 32).

Johnson et al. ('525) discloses a portable computer used by sales personnel in the field where the portable computer communicates with the system remotely. It would have been obvious to one of ordinary skill in the art at the time of the invention to include that the portable computer of Johnson et al. ('525) used the wireless communication of Johnson et al. (2002/0006126) because it would have yielded predictable results.

Claim 11 has been cancelled.

Amended claim 12 is substantially similar amended claims 1 and 7 and is therefore rejected using the same art and rationale set forth above.

Amended claim 14 is substantially similar to amended claims 1 and 4 and is therefore rejected using the same art and rationale.

Amended claim 15 is substantially similar to amended claims 1 and 7 and is therefore rejected using the same art and rationale set forth above.

As per claim 16, Johnson et al. ('525) teaches an input/output device that is a portable computer carried by the sales agent (See column 10, lines 20-40, wherein information is requested and retrieved by the sales agent in the field at the portable computer. See also column 6, lines 50-65). However, neither Johnson et al. ('525) nor Johnson et al. (2002/0006126) expressly disclose a tablet personal computer.

Johnson et al. ('525) discloses a portable computer used by sales personnel in the field where the portable computer communicates with the system remotely. Further, the sales personnel gives presentations via the computer to customers. Examiner considers tablet

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computers, PDA's and wireless telephones to be forms of portable computer(s) that are constitute obvious design choices inconsideration of the teachings of Johnson '525.

As per claim 17, Johnson et al. ('525) teaches one or more grammars, the one or more grammars defining the specified conversational cues and the associated specific information relevant to the current informational need stored in the data store (See column 26, lines 45-55, wherein different language or terminology can be specified).

Amended claim 18 is substantially similar to amended claims 1 and 7 and is therefore rejected using the same art and rationale set forth above. See also column 10, lines 20-30, of Johnson et al. ('525) which discloses a portable computer. See also above applied passages of Malec with respect to the recited device and radio signals.

As per claim 19, Johnson et al. ('525) discloses a portable computer carried by a sales agent in the field, transmitting detecting portions of conversation between the sales agent and the customer and producing electrical signals in response thereto to identify a context of the conversation, and transmitting information about the produced electrical signals to a computer carried by the sales agent (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See column 2, lines 30-35 and 47-55, column 32, lines 55-67, wherein the context of the interaction is determined. See column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-65, wherein information is retrieved about the customer and the customer's requirements).

As per claim 19, Johnson et al. ('525) discloses a portable computer carried by a sales agent in the field, transmitting signals based on the information about the conversation to a

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remotely located server; at the server, processing the signals to determine a conversational context; and retrieving the information that might be relevant to the customer based on the conversational context from a database associated with the server (See column 12, lines 12-40 and 57-65, column 13, lines 7-20, column 16, lines 20-40, wherein the interaction of a sales agent and customer are monitored. See column 2, lines 30-35 and 47-55, column 32, lines 55-67, wherein the context of the interaction is determined. See column 13, lines 1-20 and 45-50, column 14, lines 9-15, column 16, lines 20-40 and 50-65, wherein information is retrieved about the customer and the customer's requirements).

Claim 20 has been cancelled.

Claim 21 is substantially similar to claim 5 and is therefore rejected using the same art and rationale set forth above.

Newly added claims 22 and 23 specify that the processor is located in a server system (claim 22) and wherein the processor is located in a portable device carried by the sales agent.

As per these elements, Malec disclose a processor in SCD computer, i.e., server and the personal computer/display device (see at least column 3, lines 52-67 and column 6, lines 55-67).

Johnson et al. ('525) discloses interacting with a customer using customer specific and tailored information. It would have been obvious to one of ordinary skill in the art at the time of the invention to use location information to custom tailor the presentation presented the customer in order to provide more up to date and specific information to the customer.

6. Claim 13 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (U.S. 6,067,525) in view of Johnson et al. (U.S. 2002/0006126) and further in view of Malec (U.S. 4,973,952) and further in view of Examiner's Official Notice.

As per claim 13, Johnson et al. ('525) discloses a portable computer including the data processing system and the display system, the portable computer configured to be carried by the sales agent (See column 10, lines 20-40). However, neither Johnson et al. ('525) nor Johnson et al. (US 2002/0006126) expressly disclose a headset in data communication with the portable computer and including the audio input device, the headset configured to be worn by the sales agent during the conversation between the sales agent and the customer.

Johnson et al. ('525) discloses a portable computer used by sales personnel in the field where the portable computer communicates with the system remotely and captures interactions with customers. Johnson et al. (US 2002/0006126) discloses a microphone to capture interaction. Examiner takes official notice that a headset is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a headset in connection with the portable computer of Johnson et al. ('525) in order to more efficiently capture the interaction of the sales agent with the customer.

As per claim 24, while Malec discloses radio signal based location determination, Malec fails to specify 802.11b based location engine. However, Examiner takes Official Notice that such location engines are well known in the art and would have been obvious to one of ordinary

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skill in the art to employ with a reasonable expectation of success with the motivation of influencing the customer at the place and time of the purchase (Malec; column 1, lines 48-55).

***Response to Remarks***

Applicant's remarks filed 5/11/09 have been fully considered but they are not persuasive. The remarks will be addressed below in the order in which they appear in the noted response.

Applicant's remarks regarding geographic location determination with regard to Johnson '525 and Johnson et al. '126 are no longer pertinent as neither reference is relied upon in address the location determination features. Applicant correctly notes that Examiner is reliant on teachings provided by Malec in addressing the geographic location.

With respect to Malec, Applicant contends that Malec does not determine a geographic location but rather discloses a trigger transmission when the device is in the vicinity of the transmitter. Because the transmitters are fixed, Applicant further contends that this teaching fails to constitute determination of a location.

In response, Examiner respectfully disagrees. While the transmitters disclosed by Malec are fixed, the location of the cart/customer is variable. The location of the cart is determined in relation to the fixed transmitter. Examiner respectfully submits that Malec disclosure of determining the location of the cart in relation to the transmitters constitutes estimating and/or



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determining the location of the customer/agent at least insofar as presently claimed by Applicant (see at least Malec column 4, lines 11-33).

Applicant remarks that the combination of Johnson '525, Johnson et al. '126, and Malec is improper because the references com from different art.

In response, Examiner respectfully disagrees. While the three references do “come from different art” as represented by their distinct classifications, Examiner respectfully submits that each of the references are directed to the delivery of relevant information to a device via networked system which tailor and deliver information to the device based on contextual information gathered at the time and place of the information delivery. While the references each employ different context-based data gathering sensors, they solve a similar problem while employing comparable system structures and accordingly constitute analogous art with respect to the particular problems addressed and as they relate to the claimed invention. Accordingly, the applied teaching would be combined by on of ordinary skill in the art with a reasonable expectation of success.

function(s)

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. David Rines whose telephone number is (571)272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Beth Boswell can be reached on 571-272-6737. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. David Rines/  
Examiner, Art Unit 3623